

IC 5-11-5

Chapter 5. Reports of Examinations by State Board of Accounts; Recovery of Public Funds

IC 5-11-5-1

Reports of examination; copies; disclosure of examination results prohibited

Sec. 1. (a) Whenever an examination is made under this article, a report of the examination shall be made. The report must include a list of findings and shall be signed and verified by the examiner making the examination. A finding that is critical of an examined entity must be based upon one (1) of the following:

(1) Failure of the entity to observe a uniform compliance guideline established under IC 5-11-1-24(a).

(2) Failure of the entity to comply with a specific law.

A report that includes a finding that is critical of an examined entity must designate the uniform compliance guideline or the specific law upon which the finding is based. The reports shall immediately be filed with the state examiner, and, after inspection of the report, the state examiner shall immediately file one (1) copy with the officer or person examined, one (1) copy with the auditing department of the municipality examined and reported upon, and one (1) copy in an electronic format under IC 5-14-6 of the reports of examination of state agencies, instrumentalities of the state, and federal funds administered by the state with the legislative services agency, as staff to the general assembly. Upon filing, the report becomes a part of the public records of the office of the state examiner, of the office or the person examined, of the auditing department of the municipality examined and reported upon, and of the legislative services agency, as staff to the general assembly. A report is open to public inspection at all reasonable times after it is filed. If an examination discloses malfeasance, misfeasance, or nonfeasance in office or of any officer or employee, a copy of the report, signed and verified, shall be placed by the state examiner with the attorney general. The attorney general shall diligently institute and prosecute civil proceedings against the delinquent officer, or upon the officer's official bond, or both, and against any other proper person that will secure to the state or to the proper municipality the recovery of any funds misappropriated, diverted, or unaccounted for.

(b) Before an examination report is signed, verified, and filed as required by subsection (a), the officer or the chief executive officer of the state office, municipality, or entity examined must have an opportunity to review the report and to file with the state examiner a written response to that report. If a written response is filed, it becomes a part of the examination report that is signed, verified, and filed as required by subsection (a).

(c) Except as required by subsection (b), it is unlawful for any deputy examiner, field examiner, or private examiner, before an examination report is made public as provided by this section, to make any disclosure of the result of any examination of any public

account, except to the state examiner or if directed to give publicity to the examination report by the state examiner or by any court. If an examination report shows or discloses the commission of a crime by any person, it is the duty of the state examiner to transmit and present the examination report to the grand jury of the county in which the crime was committed at its first session after the making of the examination report and at any subsequent sessions that may be required. The state examiner shall furnish to the grand jury all evidence at the state examiner's command necessary in the investigation and prosecution of the crime.

(Formerly: Acts 1917, c.115, s.1.) As amended by Acts 1980, P.L.30, SEC.16; P.L.3-1986, SEC.18; P.L.39-1996, SEC.5; P.L.28-2004, SEC.57.

IC 5-11-5-2

Action for recovery of money

Sec. 2. Upon the written request of the attorney-general, the prosecuting attorney of the circuit having jurisdiction of such action shall appear with the attorney-general in all causes begun by the attorney-general for the recovery of monies or for whatever purposes growing out of such examination or report, and said prosecuting attorney shall comply with all orders of the attorney-general relating to the prosecution of such suits.

(Formerly: Acts 1917, c.115, s.2.) As amended by Acts 1978, P.L.2, SEC.511.

IC 5-11-5-3

Compromise and adjustment of actions; discretion of attorney general; appeal

Sec. 3. (a) The attorney general, by and with the consent of the state examiner and the deputy examiners, may compromise and adjust any action brought by the attorney general as required in this article. In all cases where any money comes into the attorney general's hands, the attorney general shall immediately pay the money into the treasury of the state or of the municipality to which it belongs, and shall have the money distributed among the proper funds. The attorney general may, in the attorney general's discretion, and shall, upon the order of the governor, appeal any such causes to the court of appeals or the supreme court, or both, as the case may be.

(b) The state examiner, and the field examiners and any private examiner shall use reasonable diligence in the making of investigations and in furnishing and securing evidence in connection with the prosecution of suits concerning examination reports whenever requested by the attorney general. Reasonable per diem and expenses incurred by the examiner shall be paid in the amount and in the manner provided by law in case of examinations.

(Formerly: Acts 1917, c.115, s.3.) As amended by Acts 1980, P.L.30, SEC.17; P.L.3-1986, SEC.19.

IC 5-11-5-4

Party to actions; plaintiff's right of recovery

Sec. 4. Any action brought by the attorney general, as provided in this article, may be brought in the name, as plaintiff, of the state of Indiana, or such municipality or subdivision of the state of Indiana as it may appear is entitled to recover moneys or to secure other relief under such action. If the action is brought on an official bond or official bonds, the cause may be brought in the name of the state of Indiana on the relation of such plaintiff. In an action against a township trustee, or ex-township trustee, or upon his official bond, both the civil and school corporations may be named as plaintiff or relator in the same action, and recovery may be had for the aggregate amount due both corporations, but the court or jury trying the case shall, in the finding or verdict, state the amount due each corporation. In an action where a board of commissioners is plaintiff or relator, the plaintiff shall be entitled to recover against the delinquent officer or ex-officer, or upon his official bond or bonds, all such amounts as would be recoverable under all the laws of this state, including this chapter, in any or all actions by or upon the relation of the board of commissioners, or by or upon the relation of any county officer or other person authorized to sue for whatever funds, or for any funds of which it is the custodian and with which it is chargeable, and in case any of the funds so recovered are school funds, the court or jury trying the case shall find and state the amount thereof. In any action brought under this article, the plaintiff shall be entitled to recover, in addition to the amount misappropriated, diverted or unaccounted for, all such penalties and interest as might be recoverable under laws other than this chapter.

The term municipality, as used in this article, shall be construed to extend to, include and mean any county, township, city, town, school corporation, special taxing district or other political subdivision of Indiana.

(Formerly: Acts 1917, c.115, s.4.) As amended by Acts 1980, P.L.30, SEC.18.

IC 5-11-5-5

Cumulative remedies

Sec. 5. The remedies provided for in this chapter are cumulative, and this chapter shall not be construed to abridge the rights of other officers to sue on behalf of municipalities, except to the extent that where the attorney general has brought an action under the authority of this chapter no other action shall be brought for the same matter while such action brought by the attorney general is pending, and excepting as other statutes relating thereto are expressly repealed by Acts 1917, c.115, s.7.

(Formerly: Acts 1917, c.115, s.5.) As amended by P.L.25-1986, SEC.39.

IC 5-11-5-6

repealed

(Repealed by Acts 1980, P.L.30, SEC.19.)

IC 5-11-5-7

Collecting fines, costs, and fees for statutory violations, bond forfeitures, and user's fees; compromises; collection costs; disposition of collected money

Sec. 7. (a) The state board of accounts or a person designated in writing by it may collect any of the following:

- (1) Unpaid fines, costs, or fees that are imposed for violations of statutes defining a crime or infraction and are owed to the state or its political subdivisions.
- (2) Money owed resulting from bond forfeitures under IC 35-33-8-7.
- (3) Unpaid user's fees incurred under a pretrial diversion agreement by a person charged with a misdemeanor, infraction, or ordinance violation.

(b) The state board of accounts or its agent may compromise the amount of money owed in collecting money under this section.

(c) The costs of collection, including but not limited to reasonable attorney's fees, may be added to money that is owed and collected under this section. However, the costs of collection may not exceed an amount that is equal to the amount of money that is owed.

(d) When money is collected under this section, the state board of accounts or its agent shall deposit the money, less the costs of collection, in accounts to the credit of the state or a political subdivision as required by law.

(e) The costs of collecting money under this section shall be determined by the state board of accounts and shall be paid from money collected.

As added by P.L.43-1986, SEC.1. Amended by P.L.64-1989, SEC.1.

IC 5-11-5-8

Copies of reports filed with library upon request; public inspection; renewal of request

Sec. 8. (a) Upon request of a public library, the state examiner shall file with the library (without cost to the library) a copy of each report of an examination concerning a municipality, state agency, public hospital, license branch, or other entity that is located in the same county as the library. The request must be in writing.

(b) This section does not require the state examiner to:

- (1) file copies of reports completed before the receipt of a request; or
- (2) file a copy of any report with more than one (1) public library located in the same county.

(c) Copies of reports filed under this section are open to public inspection during hours that the library is open to the public.

(d) After a library has been granted a request to receive copies of reports under this section, the library may continue as the repository for those reports if it files an annual renewal of its request in writing

with the state board of accounts before January 15 of each year.
As added by P.L.65-1987, SEC.1.